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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN JOSE DIVISION**  
14

15 IN RE: HIGH-TECH EMPLOYEE  
16 ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

17 THIS DOCUMENT RELATES TO:

18 ALL ACTIONS  
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**DECLARATION OF JOHN P.  
MITTELBACH IN SUPPORT OF  
DEFENDANTS' JOINT RESPONSE TO  
PLAINTIFFS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF PLAINTIFFS' MOTION  
TO EXCLUDE EXPERT TESTIMONY  
PROFFERED BY DEFENDANTS**

1 I, John P. Mittelbach, hereby declare and say:

2 1. I am an attorney with Munger, Tolles & Olson LLP, counsel of record for Intel  
3 Corporation (“Intel”) in this case, and am admitted to practice before this Court. I make this  
4 declaration in support of Defendants’ Joint Response to Plaintiffs’ Administrative Motion to File  
5 Under Seal that is being filed concurrently with this Declaration. On behalf of Intel, I make this  
6 declaration pursuant to Local Rules 79-5(d) and 7-11(a) to demonstrate good cause for the  
7 portions of the documents described below to be filed under seal. If called and sworn as a witness,  
8 I could and would competently testify to the matters stated below.

9 2. I have reviewed the documents described below, and made specific, narrowly  
10 tailored redactions where necessary to protect highly confidential and highly sensitive Intel  
11 information regarding its compensation, hiring, and recruiting practices.

12 *The Reasons for Sealing the Redacted Information*

13 3. The grounds for Intel’s redactions identified below are set forth in the Declaration  
14 of Tina M. Evangelista in Support of Plaintiffs’ Administrative Motion to File Under Seal  
15 Plaintiffs Notice of Motion and Motion for Class Certification, and Memorandum of Law in  
16 Support, Docket Item 203 (Oct. 8, 2012) (“Evangelista Decl.”). The types of confidential Intel  
17 information reflected in the documents at issue here are the same (or substantially similar) to the  
18 types of confidential Intel information described in the Evangelista Declaration. As explained in  
19 the Evangelista Declaration, the information at issue here reflects confidential business  
20 information that gives Intel a competitive advantage in recruiting, retaining, and compensating  
21 employees. Evangelista Decl. ¶ 4. Intel derives independent economic value from the strategic  
22 information and raw data contained in these documents not being generally known to the public or  
23 to other persons who can obtain economic value from its disclosure or use. *Id.* ¶ 5. It is Intel’s  
24 practice to treat these documents and data as confidential, and not to disclose them outside the  
25 company. *Id.* ¶ 6. The information reflected in the documents at issue here quotes from,  
26 describes, or reflects analysis of Intel’s documents and data that have been designated  
27 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (“AEO”) pursuant to the Protective Order in  
28 this Action.

*The Intel Confidential Information that Should be Sealed*

4. Specifically, Intel seeks to seal the following highly confidential, commercially sensitive information:

**Amended Expert Report of Edward A. Snyder, Ph.D. (December 6, 2013):**

- Paragraph 36 contains confidential information reflecting Intel's methods for identifying and recruiting potential job candidates.
- Exhibits 3a and 3b, and the related text in Paragraphs 39 and 43, contain confidential Intel employment data, in particular they discuss Intel's hiring and separation statistics from 2002 to 2011.

**Expert Report of Elizabeth Becker, Ph.D. (November 25, 2013):**

- Paragraph 26 contains information describing confidential Intel compensation practices, in particular this paragraph describes extensively Intel's particular methods and practices for setting employee compensation.
- Paragraphs 50-54, 56-57 and accompanying footnote 48 contain confidential information describing Intel compensation practices, in particular these paragraphs describe extensively Intel's pay ranges for various job grades and reflects actual compensation ranges for specific Intel job titles and grades.
- Paragraphs 58-59 contain confidential information describing Intel compensation practices, in particular the actual compensation paid to Plaintiff Mark Fichtner in relation to his pay grades at Intel.
- Paragraph 80 contains confidential information reflecting Intel compensation data, including specific discussion of Intel's average base salaries from 2001-2011.
- Paragraph 111 contains confidential information describing Intel compensation practices, in particular the actual equity grants made to Plaintiff Mark Fichtner.

- 1           • Paragraph 113 contains confidential information describing Intel
- 2           compensation practices, in particular Intel's practices regarding the total
- 3           compensation provided to employees from 2001 to 2011.
- 4           • Paragraph 116 contains confidential information describing Intel
- 5           compensation practices, in particular the total compensation paid to Plaintiff
- 6           Mark Fichtner.
- 7           • Paragraphs 1117-118 confidential information describing Intel's
- 8           confidential employment and compensation practices.
- 9           • Paragraph 120 contains confidential information describing confidential
- 10          Intel compensation practices, in particular Intel's practices for awarding
- 11          equity grants to employees.
- 12          • Paragraph 125 contains confidential information describing Intel's
- 13          confidential employment and compensation practices.
- 14          • Footnote 95 on page 34 contains confidential information describing Intel's
- 15          confidential employment and compensation practices.
- 16          • Paragraph 132 contains confidential information describing Intel's
- 17          confidential employment, in particular it discusses hiring statistics.
- 18          • Footnote 96 on page 35 contains confidential information describing Intel's
- 19          confidential employment and compensation practices.
- 20          • Paragraph 139 contains confidential information describing Intel's
- 21          employment data.
- 22          • Paragraphs 142, 144, 147-148 and related footnote 103 contains
- 23          confidential information that includes Intel's compensation data and
- 24          practices.
- 25          • Paragraphs 149, 152-156, and related footnotes 111, 112, and 117 contains
- 26          confidential information that includes Intel's compensation data and
- 27          practices.
- 28

- Appendix A2 contains confidential information describing Intel employment data.
- Appendix A3 contains confidential information describing Intel employment data.
- Appendix A4 contains confidential information describing Intel actual compensation data, in particular this exhibit provides a breakdown of Intel's particular base salary for particular pay grades.
- Appendix B3 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Appendix B4 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Appendix B5 contains confidential information describing Intel's actual compensation data to employees in various pay grades.
- Appendix B7 contains confidential information describing Intel's actual employment practices and compensation data.
- Appendix B8 contains confidential information describing Intel's actual employment practices and compensation data.
- Appendix C1 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Appendix C2 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Appendix C5 contains confidential information describing Intel's actual employment practices and compensation data.
- Appendix D2 contains confidential information describing Intel's employment data.
- Appendix E9 contains information including Intel's confidential compensation data.

- Appendix E10 contains information including Intel's confidential compensation data.
- Exhibit A2 contains confidential information describing Intel employment data.
- Exhibit A3 contains confidential information describing Intel employment data.
- Exhibit A4 contains confidential information describing Intel actual compensation data, in particular this exhibit provides a breakdown of Intel's particular base salary for particular pay grades.
- Exhibit B3 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Exhibit B4 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Exhibit B5 contains confidential information describing Intel's actual compensation data to employees in various pay grades.
- Exhibit B7 contains confidential information describing Intel's actual employment practices and compensation data.
- Exhibit B8 contains confidential information describing Intel's actual employment practices and compensation data.
- Exhibit C1 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Exhibit C2 contains confidential information describing Intel's actual compensation data related to equity grants to employees.
- Exhibit C5 contains confidential information describing Intel's actual employment practices and compensation data.
- Exhibit D2 contains confidential information describing Intel's employment data.

- Exhibit E9 contains information including Intel's confidential compensation data.
- Exhibit E10 contains information including Intel's confidential compensation data.
- Attachment 3 contains confidential information describing Intel's actual compensation data.

**Expert Report of David Lewin, Ph.D. (Nov. 25, 2013):**

- Exhibit 13B contains confidential information describing Intel's actual compensation data.
- Exhibit 13C contains confidential information describing Intel's actual compensation data.
- Exhibit 14B contains confidential information describing Intel's actual compensation data.
- Exhibit 15B contains confidential information describing Intel's actual compensation data.
- Exhibit 15C contains confidential information describing Intel's actual compensation data.
- Exhibit 16B contains confidential information describing Intel's actual compensation data.
- Exhibit 16C contains confidential information describing Intel's actual compensation data.

**Expert Report of Dr. Kevin Murphy, Ph.D (Nov. 25, 2013):**

- Appendix C-3 contains confidential information including Intel employment and hiring practices.
- Appendix D-3 contains confidential information including Intel employment and hiring practices.

*The Particularized Harm Disclosure Would Cause*

1           5.       According to the Evangelista Declaration, which addresses the same (or  
2 substantially similar) types of information as that which is redacted in the above-referenced  
3 documents, Intel would suffer particular harm if the redacted information is disclosed to the  
4 public. Disclosure of such information would put Intel at a significant competitive disadvantage  
5 in terms of its ability to identify, recruit, and compensate employees. Evangelista Decl. ¶ 8.  
6 Disclosure of such information would deprive Intel of its investment in developing strategies for  
7 recruiting and compensation. *Id.* And disclosure of such information would give Intel's  
8 competitors an unearned advantage by informing them of Intel's compensation strategies,  
9 compensation levels, and other related information. *Id.*

10           6.       Because the information redacted in the above-referenced documents cannot be  
11 disclosed without causing particularized harm to Intel, it should be protected from public  
12 disclosure.



1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct.

3  
4 Executed this 13th day of January, 2014 at Los Angeles, California.

5 DATED: January 13, 2014  
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8 /s/ John P. Mittelbach

John P. Mittelbach  
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